

REGULATORY IMPACT STATEMENT UPDATE

October 28, 2010

KAR 28-19-200a

New Permanent Air Quality Regulation

KAR 28-19-350

Amended Permanent Air Quality Regulation

The notice of hearing and public comment period of at least 60 days regarding the above-referenced Kansas Department of Health and Environment (KDHE) air quality regulations concerning implementation of the federal greenhouse gas tailoring rule was published in the *Kansas Register* on August 26, 2010. The notice is included in the official record of the proceedings for adoption of these regulations as Attachment 1 to the Report of the Hearing Officer. During the public comment period preceding the hearing, KDHE received two written comments submitted by electronic mail, which included one comment submitted by a regulated facility and one comment submitted by an interested organization. The agency also received a comment letter from Raney L. Gilliland, Kansas Legislative Research Department, on behalf of the Joint Committee on Administrative Rules and Regulations. The public comment period was kept open for receipt of written comment postmarked no later than the day of the hearing.

The public hearing was conducted at 10:00 a.m., Tuesday, October 26, 2010, at the Kansas Department of Health and Environment, Curtis State Office Bldg., Rm. 530, Topeka. In addition to the hearing officer, ten persons attended the hearing, including two persons from the public representing regulated facilities with an interest in the proposed regulations, and eight KDHE staff persons. The sign-in sheet listing persons attending the hearing is included in the Report of the Hearing Officer as Attachment 2. At the hearing, one individual from the public, representing a regulated facility, presented oral comment in support of the proposed regulations and provided a written copy of the comment. No other written or oral comment regarding the regulations was presented or received at the hearing. After the hearing, one additional electronic mail comment was received from an individual representing a facility concerned with the proposed regulations.

Pursuant to KSA 2009 Supp. 77-416, and amendments thereto, the agency provided copies of the proposed regulations and regulatory impact statement to the League of Kansas Municipalities, Kansas Association of Counties and Kansas Association of School Boards for their review and requesting information or comment that the agency should consider regarding the impact of the proposed regulations. KDHE received an electronic mail comment from the Kansas Association of Counties. No changes in the proposed regulations were necessary to address this comment.

All public comment was fully reviewed and considered. After careful consideration, the agency determined that no changes in the proposed regulations were needed to address the comment or to update any statutory citations in the regulation histories. KDHE

prepared a responsiveness summary that lists each comment received and provides a detailed explanation of the agency's response to address each comment. The hearing officer entered both the public comment and the responsiveness summary into the official record of the proceedings and these documents were attached to and made a part of the Report of the Hearing Officer as Attachment 3 and Attachment 4, respectively.

Based on the administrative record, the hearing officer found that the agency met the requirements of KSA 2009 Supp. 77-415, *et seq.* for adopting and filing regulations and determined that the Secretary of KDHE has authority pursuant to KSA 2009 Supp. 65-3005 to promulgate the above-listed administrative regulations. These regulations have been adopted by the Secretary of KDHE and filed with the Secretary of State for final publication in the *Kansas Register*.